

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON,
AT TACOMA

COUNTRY MUTUAL INSURANCE
COMPANY, an Illinois corporation
individually and as successor in interest to
HOLYoke Mutual Insurance
Company in Salem,

Plaintiff,

VS.

EVERGREEN LANDING, LLC

Defendant.

Cause No. 3:20-cv-05337 RJB-TLF

**PLAINTIFF 'S ANSWER AND
AFFIRMATIVE DEFENSES TO
EVERGREEN LANDING, LLC'S
COUNTERCLAIMS**

Plaintiff Country Mutual Insurance Company, individually and as successor in interest to Holyoke Mutual Insurance Company in Salem (“Country Mutual”) submits the following Answer and Affirmative Defenses to Defendant Evergreen Landing, LLC’s (“Evergreen Landing”) Counterclaims.

IV. COUNTERCLAIM FOR DECLARATORY JUDGMENT

4.1 Country Mutual incorporates by reference and realleges all responses and allegations set forth in its Complaint for Declaratory Relief (ECF 1), as if fully set forth herein.

PLAINTIFF'S ANSWER AND AFFIRMATIVE DEFENSES TO
EVERGREEN LANDING, LLC'S COUNTERCLAIMS – 1
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1 4.2 Country Mutual admits that it agreed to defend Evergreen Landing against the
 2 claims in the Liability Action pursuant to a full reservation of rights under the Policy, including
 3 but not limited to, the right to file this declaratory judgment action on the coverage issues.
 4 Country Mutual denies any remaining factual allegations in this paragraph. The remaining
 5 allegations contained in this paragraph are conclusions of law to which no responsive pleading
 6 is required.

7 4.3 Country Mutual is without knowledge or information sufficient to form a belief
 8 regarding the truth of the factual allegations contained in this paragraph and, therefore, denies
 9 same. The remaining allegations contained in this paragraph are conclusions of law to which no
 10 responsive pleading is required. To the extent further response to any allegations contained in
 11 this paragraph is required, Country Mutual denies the same.

12 4.4 Country Mutual admits that it is entitled to reimbursement of the defense costs
 13 that it expended on Evergreen Landing's behalf in accordance with the terms of the Policy.
 14 Country Mutual denies any remaining factual assertions in this paragraph. The remaining
 15 allegations contained in this paragraph are conclusions of law to which no responsive pleading
 16 is required.

17 4.4 [sic] Country Mutual is without knowledge or information sufficient to form a
 18 belief regarding the truth of the factual allegations contained in this paragraph and, therefore,
 19 denies the same. The remaining allegations contained in this paragraph are conclusions of law
 20 to which no responsive pleading is required. To the extent further response to any allegations
 21 contained in this paragraph is required, Country Mutual denies the same.

22 4.5 (a) – (e), inclusive. Country Mutual is without knowledge or information
 23 sufficient to form a belief regarding the truth of the factual allegations contained in this

1 paragraph and, therefore, denies the same. Country Mutual denies that Evergreen Landing is
 2 entitled to any of the relief sought. The remaining allegations contained in this paragraph are
 3 conclusions of law to which no responsive pleading is required. To the extent further response
 4 to any allegations contained in this paragraph is required, Country Mutual denies the same.

5 **V. COUNTERCLAIM FOR BREACH OF CONTRACT**

6 5.1 Country Mutual incorporates by reference and realleges all responses and
 7 allegations set forth in its Complaint for Declaratory Relief (ECF 1), as if fully set forth herein
 8 as well as its responses to paragraphs 4.1 through 4.5 above.

9 5.2 The allegations contained in this paragraph are conclusions of law to which no
 10 responsive pleading is required. To the extent further response to any allegations contained in
 11 this paragraph is required, Country Mutual denies the same.

12 5.3 Country Mutual is without knowledge or information sufficient to form a belief
 13 regarding the truth of any factual allegations contained in this paragraph and, therefore, denies
 14 the same. The remaining allegations contained in this paragraph are conclusions of law to
 15 which no responsive pleading is required. To the extent further response to any allegations
 16 contained in this paragraph is required, Country Mutual denies the same.

17 **PRAYER FOR RELIEF**

18 Country Mutual denies all allegations contained in Evergreen Landing's Prayer for
 19 Relief and specifically denies that Evergreen Landing is entitled to any of the relief requested.

20 **COUNTRY MUTUAL'S AFFIRMATIVE DEFENSES TO COUNTERCLAIMS**

21 Country Mutual asserts the following affirmative defenses by way of further answer to
 22 the Counterclaims. To the extent any matter set forth below as an affirmative defense should be
 23 treated as a counterclaim, Country Mutual respectfully requests the Court to exercise its

1 authority to treat the pleading as if a proper designation had been made. By including certain
2 defenses herein, Country Mutual does not concede that it has assumed any applicable burden of
3 proof.

4 1. The Counterclaims may fail to state a claim upon which relief can be granted.

5 2. The Counterclaims may be barred by the doctrines of waiver, estoppel, laches
6 and/or unclean hands.

7 3. The breach of contract claim is not ripe.

8 4. There is no justiciable controversy with regard to the breach of contract claim.

9 5. The Counterclaims fail to the extent that Country Mutual has not denied a
10 defense and/or indemnity.

11 6. Country Mutual has no obligation to indemnify or pay to the extent that the
12 claims in the underlying lawsuit fall outside of the Policy's coverage and/or are barred by an
13 exclusion, condition or limitation found in the Policy.

14 7. Country Mutual's obligations, if any, are subject to the limits, terms, conditions,
15 provisions, and exclusions set forth in the Policy. Country Mutual incorporates the allegations
16 and positions set forth in its Declaratory Judgment Complaint (ECF 1), as if fully set forth
17 herein.

18 8. Country Mutual reserves the right to rely upon the law of any state, or various
19 states within the United States, that properly applies to any issue arising in the course of this
20 action.

21 9. Country Mutual does not waive, and specifically reserves, any and all claims
22 and counterclaims it may have against any party or person.

RESERVATION OF RIGHTS

Country Mutual reserves the right to amend its Answer to the Counterclaims to assert additional allegations, claims, and affirmative defenses, as additional facts are obtained through discovery and investigation.

PRAYER FOR RELIEF

Having fully responded to Evergreen Landing's counterclaims, Country Mutual prays for the following relief:

1. Dismissal of Evergreen Landing's counterclaims against Country Mutual with prejudice;
2. That Evergreen Landing be awarded no attorney fees or other relief in this matter;
3. That Country Mutual be awarded its attorneys' fees and costs in this action by way of contract, statute and/or equity; and
4. For such other and further relief as this Court deems just and equitable.

DATED this 13th day of July, 2020.

SOHA & LANG, P.S.

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PLAINTIFF'S ANSWER AND AFFIRMATIVE DEFENSES TO
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